

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Rules and Regulations Implementing)	
Minimum Customer Account Record)	CG Docket No. 02-386
Exchange Obligations on All Local and)	
Interexchange Carriers)	
)	

REPLY COMMENTS OF WORKING ASSETS FUNDING SERVICE
dba WORKING ASSETS LONG DISTANCE

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TABLE OF CONTENTS

	Page
SUMMARY	1
I. THE COMMENTS DEMONSTRATE THAT CARE INFORMATION IS ESSENTIAL FOR INTEREXCHANGE CARRIERS TO ACCURATELY BILL THEIR CUSTOMERS AND PROVIDE OTHER IMPORTANT SERVICES	2
II. THE COMMISSION MUST REQUIRE ALL CARRIERS TO PARTICIPATE IN CARE	3
III. THE COMMISSION MUST IMPOSE MANDATORY MINIMUM CARE STANDARDS ON ALL CARRIERS	6
CONCLUSION	10

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Working Assets Funding Service, (“Working Assets”) submits these Reply Comments pursuant to the Federal Communications Commission’s (the “Commission’s”) Notice of Proposed Rulemaking¹ in the above referenced proceeding.

SUMMARY

The Opening Comments submitted by the parties demonstrate that the Commission should require all carriers to participate in the CARE process and should adopt and enforce mandatory minimum requirements for the CARE information exchanged between carriers. Voluntary participation in the CARE process has not been sufficient to prevent problems caused by the lack of uniform standards and availability of essential information. The absence of enforceable standards results in customer confusion, as carrier change requests may not be executed as requested and inaccurate billing occurs because of inadequate information. Mandatory participation and enforceable standards is the only workable solution where a market for this information does not exist and when those entities controlling the CARE information

¹ *Rules and Regulations Implementing Minimum Customer Account Record Exchange Obligations on All Local and Interexchange Carriers*, CG Docket No. 02-386, Notice of Proposed Rule Making, FCC 04-50 (Mar. 25, 2004) (“*NPRM*”). All comments filed in this proceeding on June 3, 2004, will hereinafter be short cited.

have anticompetitive incentives to not provide that information to competitors that require it to conduct their business.

I. THE COMMENTS DEMONSTRATE THAT CARE INFORMATION IS ESSENTIAL FOR INTEREXCHANGE CARRIERS TO ACCURATELY BILL THEIR CUSTOMERS AND PROVIDE OTHER IMPORTANT SERVICES

Comments filed by a number of parties demonstrate the importance of CARE information and describe the problems that can result if accurate information is not received in a timely manner. The Joint Petitioners' Comments provide numerous examples of problems that can arise when an interexchange carrier does not receive accurate or complete information regarding when a customer is prescribed to its network via the local service provider's switch, when customer account information is changed, when the customer changes or disconnects local or interexchange service, or when other significant information regarding a customer account changes.² If interexchange carriers do not receive this information they are unable to correctly process new orders for service, disconnect those customers that move to another carrier, or invoice the customer correctly.³

The immediate result of inaccurate or incomplete information is consumer harm. Customers believe that they have been "slammed" or "crammed" or are billed inaccurately and must attempt to resolve the problem without knowing its root cause. This results in frustration and complaints. More insidious, however, is the harm this causes to the competitive market as customers become frustrated with what they perceive as problems inherent to interexchange carriers as a business segment,⁴ and migrate to those carriers that control CARE information, the

² Comments of AT&T Corp., MCI Inc., and Sprint Corporation at 3-6 ("Joint Petitioners' Comments").

³ Joint Petitioners' Comments at 5.

⁴ See Joint Petitioners' Comments at 6, where they note the difficulties caused by inaccurate CARE information leaves customers with the perception that interexchange carriers offer poor service and that their own studies indicate that 40% - 60% of customer complaints regarding billing errors could be eliminated if accurate and timely CARE information was available.

local exchange carriers that are now able to provide both long distance and local services.

The National Association of Regulatory Utility Commissioners (“NARUC”) and state regulatory agencies concur that the lack of an efficient information exchange process resulted in significant customer complaints. “Based on estimates provided by NARUC member States, it appears that somewhere between 30% to 50% of billing-related telecommunications complaints received by State Commissions stem from a breakdown in communications among numerous carriers involved in changing a customer’s primary interexchange carrier ... While industry did not completely agree on how to solve the problem, participants agreed that changes to the existing carrier change process – the Customer Account Record Exchange (CARE) process – are necessary.”⁵

Therefore, CARE information is essential for interexchange carriers to provide fundamental customer services, such as accurate billing, installation, and disconnection. Because no party disputes that local exchange carriers are the only source for the vast majority of this information the Commission must create a uniform and industry-wide process for its exchange.

II. THE COMMISSION MUST REQUIRE ALL CARRIERS TO PARTICIPATE IN CARE

Problems caused by the absence of universal participation in CARE can only be remedied by mandatory participation in the CARE process. As the Joint Petitioners note, “[t]here is no other current industry process available for any IXC to determine which customers are connected to its network at the local switch.”⁶ The local exchange carriers have monopoly control over the vast majority of CARE information that interexchange carriers require to perform basic customer care and billing functions. Furthermore, because the local exchange companies often compete

⁵ NARUC Comments at 3.

⁶ Joint Petitioners’ Comments at 4.

with interexchange carriers in the long distance market, they also have the incentive to withhold from their competitors information that is essential for them to provide their customers with quality service. Time Warner is correct when it notes that “[t]he incumbents appear to have a strong incentive to undermine the CARE process because doing so grants them a competitive advantage in the long distance market place vis-à-vis non-LEC long distance carriers trying to compete in the incumbent’s region. Moreover, an ‘investment’ in anticompetitive behavior with regard to the CARE process by an incumbent LEC, and the resulting reputational harm to competing long distance carriers, would seem to promise significant potential returns across the incumbent’s region.”⁷ The only practical way to overcome this incentive is for the Commission to require that all carriers participate in the CARE process.

Comments submitted by the Alliance for Telecommunications Industry Solutions (“ATIS”) note that “there is widespread industry support for mandatory participation from all local and interexchange carriers in the exchange of CARE.”⁸ “ATIS believes participation on the exchange of CARE by all industry players would go a long way towards resolving the consumer complaints and billing errors identified in the *NPRM*.”⁹ As ATIS notes, the CARE process, as implemented through the Ordering and Billing Forum (“OBF”), is a well established and recognized industry body comprised of subject matters experts.¹⁰ At the present time participation in CARE is voluntary and ATIS and the OBF, while developing the standards, have no authority to require their use or enforce them.

Carriers are, or should be, well aware of the CARE process and able to participate with minimal effort. As SBC states, “[p]ractically every segment of the telecommunications industry

⁷ Time Warner Telecom Comments at 3.

⁸ Alliance for Telecommunications Industry Solutions (“ATIS”) Comments at 6.

⁹ *Id.*

¹⁰ *Id.*

provides input into how this process is used, including the type of customer data shared and the format used to communicate such data. For carriers participating in the CARE process, it not only works, but has proven to be the most efficient and consistent method of exchanging required customer data between carriers.”¹¹ Furthermore, SBC states that “[m]andatory carrier participation in the CARE process should not unduly burden carriers not currently participating in the CARE process” given that a number of alternative methods of participation exist, including through third party vendors.¹²

Those parties opposing mandatory participation in the CARE process offer no real reasons for such opposition beyond that mandatory participation would amount to “unnecessary regulations” or would be “burdensome.”¹³ A group of small, rural incumbent local exchange carriers urges that they be allowed “... to continue to provide information in the manner in which they already are accustomed.”¹⁴ These comments, however, highlight the problems inherent in voluntary participation. That is, carriers participate only to the extent that they benefit individually, rather than doing so to improve the market for telecommunications services and customer benefit generally. In situations where participation means benefiting a competing long distance company, the incentive to not participate is strong. Furthermore, in the absence of standards each local exchange carrier will provide only the information that it decides is needed or available, forcing the long distance companies to receive incomplete information in many different and non-conforming formats, further burdening their ability to compete.¹⁵ In light of the comments by other parties demonstrating that participation in CARE poses no unnecessary

¹¹ SBC Comments at 8.

¹² *Id.*

¹³ United States Telecom Association (“USTA”) Comments at 4.

¹⁴ Rural Incumbent Local Exchange Carriers Comments, Attachment B at 6.

¹⁵ The Joint Petitioners’ Comments note that 3,065 local exchange carriers are listed in the Local Exchange Routing Guide (Joint Petitioners’ Comments at 7). Even if a fraction of these companies participated using their own, unique format, long distance companies would be forced to receive information in potentially hundreds of different formats.

burdens and will benefit the market for telecommunications services, the comments of those opposing mandatory participation should not be given any weight.

III. THE COMMISSION MUST IMPOSE MANDATORY MINIMUM CARE STANDARDS ON ALL CARRIERS

In addition to the problems caused by voluntary participation in CARE, problems arise when those carriers that do participate do not provide all of the information needed by interexchange carriers to conduct their business. CARE includes more than 700 “Transaction Code Status Indicators” or “TCSIs.” Each TSCI represents certain specific information within broad categories; some TCSIs provide more generic information and while others in the same category provide more detailed information. For example, TCSI 2003 is a “generic” code indicating that the end-user has selected the long distance company through contact with the local exchange carrier; it does not include ballot or allocation activities and could be for new or additional service. The OBF instructions include the note that “if a local exchange company can provide additional detail, use of other [TC]SIs is appropriate. On the other hand, TCSI 2005 is a non-generic code in the same category as 2003 indicating that the end-user has selected the long distance company during a move (change of address) and that the end-user may have had service with the long distance company or a different long distance company at a previous address. At this time it is entirely at the discretion of the local exchange carrier which TCSIs it will make available, the generic or the non-generic. While in some instances the generic codes may be sufficient, oftentimes the long distance companies require the more detailed information included in the non-generic codes but are not able to obtain that information because the local exchange carrier does not include it in the packages of TCSIs it makes available.

The minimum standards proposed by the Joint Petitioners are both necessary and appropriate. These minimums will provide interexchange carriers with the basic information

they need to operate in the most efficient way possible. These TCSIs represent less than five percent of the total TCSIs specified by CARE.¹⁶ They represent a baseline from which carriers can negotiate the provision of additional or replacement information, depending on a particular interexchange carrier's specific needs.

While the local exchange carriers may choose to make available those TCSIs that they deem to be necessary, in reality the only parties that are capable of determining what information they really need are those that actually use and depend on the CARE information, the interexchange carriers. BellSouth alleges that "there are approximately 35 CARE TC 20XX codes that could be used by a LEC to notify the IXC selected as the presubscribed carrier. All 35 of these codes indicate in some fashion or another that the end user has selected that IXC."¹⁷ BellSouth then claims that an interexchange carrier needs to know nothing more than whether a customer has selected it to be the customer's long distance provider and that any of the additional information contained in the more detailed TCSI is not essential to facilitate accurate billing.¹⁸ In reality, interexchange carriers do need information beyond simply that they have been chosen by a customer to be its long distance carrier.¹⁹

¹⁶ Joint Petitioners' Comments at 11.

¹⁷ BellSouth Comments at 8.

¹⁸ *Id.*

¹⁹ As an example of additional information that long distance carriers require, the TCSI category 20XX includes 35 codes, nine of which are included in the Joint Petitioners' proposal. Of those nine codes, two are generic codes (2003 indicates that the customer selected the carrier by contacting the LEC and 2004 indicates that the PIC was changed due to the Carrier's request). The remaining 7 are more specific codes. They provide vital information and trigger interexchange carriers to take specific actions when a customer moves. For example, a receipt of a 2005 code (address change TCSI) tells an interexchange carrier to compare the address it currently has for the customer in its system to the address on the CARE and to change the address as appropriate. A 2007 TCSI indicates an ownership change and tells the interexchange carrier to compare the name that it has in its records to the name on the CARE and to change as appropriate. The Joint Petitioners' have not selected all of the codes that may be available but they have carefully chosen those that provide the interexchange carriers with the most important information.

BellSouth also states that local exchange carriers and interexchange carriers can mutually agree on the codes that will be provided through contract or other negotiated means.²⁰ It has been Working Assets experience, however, as described in its Comments, that local exchange carriers are unwilling to negotiate contracts for CARE and such contracts, if required, are offered on a “take-it-or-leave-it” basis. That is, the interexchange carrier purchases the CARE product, including the TCSIs, offered by the local exchange carrier or it does not receive useful CARE information.²¹

SBC opposes mandating the use of specific CARE codes and instead supports adoption of “minimum CARE obligations.”²² Interestingly, the “minimum CARE obligations” SBC proposes in its comments approximate the CARE information that SBC makes available only to those interexchange carriers who purchase its “Enhanced CARE Package” pursuant to a non-negotiable contract.²³ Because SBC’s proposal is only a list of the type of information that it intends to provide, as opposed to the Joint Petitioners’ list of specific TCSIs, it is not possible to know whether the information that SBC will provide is sufficient to allow the interexchange carriers to conduct their business. Should SBC determine that generic TCSIs provide what it believes to be sufficient information then the interexchange carriers may be prevented from obtaining necessary information available only from the non-generic TCSIs.

Finally, USTA argues that no standards of any sorts are required because “consumer needs are better satisfied through free markets, rather than increased regulation.” Although as a general principle, Working Assets would concur with USTA’s statement, it is not applicable in this particular instance. A condition precedent for free markets to respond to consumer demands

²⁰ *Id.*

²¹ Working Assets Comments at 5-9.

²² SBC Comments at 3, 5.

²³ *See* Working Assets Comments at 6-9.

is the existence of a competitive market for the good or service in question. This condition does not exist for CARE information. Rather, each local exchange carrier has monopoly control over its customers' information. Moreover, the "customer," the interexchange carrier, has no leverage to force the local exchange carrier to improve the quality of the CARE information it provides. In most instances, the interexchange carriers' customers, the ultimate end-user, have no idea that a CARE process even exists. All the end-user knows is that its chosen interexchange carrier is unable to install service correctly, produce an accurate invoice, or disconnect service when requested. This is not a market that responds to consumers' needs. It is not a market at all.

Adopting standardized mandatory minimum requirements is the most cost effective way to ensure that all carriers provide or receive information that is essential to maintaining a competitive telecommunications market and providing efficient service to end users. While the local exchange carriers complain of the burdens that may be imposed by any loss of flexibility to choose what information they provide, interexchange carriers must bear the costs of this flexibility by adapting their systems to be capable of processing inconsistent information from hundreds of local exchange carriers. Requiring a small number of TCSIs to be mandatory is an efficient compromise between the needs of the interexchange carriers and the cost burden that may be imposed upon local exchange carriers.

Therefore, Working Assets urges the Commission to adopt the mandatory minimum standards proposed by the Joint Petitioners as the most cost effective way to ensure that all carriers receive the information they require to provide services to their customers.

CONCLUSION

For the reasons set forth above, Working Assets urges the Commission to adopt as mandatory minimums the TCSIs as proposed by the Joint Petitioners.

Respectfully submitted,

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CERTIFICATE OF SERVICE

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